

AN ACT

relating to the computation of a surplus credit for certain
successor employing units.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter E, Chapter 204, Labor Code, is
amended by adding Section 204.0861 to read as follows:

Sec. 204.0861. SURPLUS CREDIT FOR SUCCESSOR EMPLOYING
UNITS. (a) In this section, "surplus credit" means a credit
described by Section 204.0651.

(b) A successor employing unit to which compensation
experience is transferred under Section 204.083 is entitled to a
surplus credit attributable to, but not applied or received by, the
predecessor employing unit.

(c) A successor employing unit to which compensation
experience is transferred under Section 204.084 is entitled to a
surplus credit attributable to, but not applied or received by, the
predecessor employing unit if the commission determines that the
requirement described by Section 204.084(c)(3) is satisfied.

(d) If the commission determines that a transfer of
compensation experience was accomplished solely or primarily for
the purpose of obtaining a lower contribution rate, a successor
employing unit is not entitled to, and may not apply or receive, a
surplus credit under Subsection (b) or (c).

(e) A predecessor employing unit is not entitled to, and may

1 not apply or receive, all or any portion of a surplus credit that is
2 based on compensation experience that is transferred to a successor
3 employing unit under this subchapter.

4 (f) The commission shall adopt rules necessary to implement
5 and enforce this section, including rules that ensure that only a
6 successor employing unit applies or receives all or part of a
7 surplus credit previously attributable to a predecessor employing
8 unit.

9 SECTION 2. Section 204.0861, Labor Code, as added by this
10 Act, applies only to an acquisition of an organization, trade, or
11 business that occurs on or after the effective date of this Act. An
12 acquisition of an organization, trade, or business that occurs
13 before the effective date of this Act is governed by the law in
14 effect on the date the acquisition occurred, and that law is
15 continued in effect for that purpose.

16 SECTION 3. This Act takes effect September 1, 2011._____

S.B. No. 638

David Suhrst

President of the Senate

Joe Straus

Speaker of the House

I hereby certify that S.B. No. 638 passed the Senate on
March 24, 2011, by the following vote: Yeas 31, Nays 0.

Daisy Dawson

Secretary of the Senate

I hereby certify that S.B. No. 638 passed the House on
April 20, 2011, by the following vote: Yeas 148, Nays 0, one
present not voting.

Robert Nancy

Chief Clerk of the House

Approved:

9 MAY '11

Date

RICK PERRY

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE

6:00pm O'CLOCK

MAY 09 2011

Debra M. Davis

Secretary of State